

**STATE OF CALIFORNIA  
DEPARTMENT OF INSURANCE  
45 Fremont Street  
San Francisco, California 94105**

**RH01018405**

**June 29, 2004**

**UPDATED INFORMATIVE DIGEST**

**CALIFORNIA AUTOMOBILE ASSIGNED RISK PLAN  
PLAN OF OPERATIONS**

Pursuant to California Insurance Code ("CIC") § 11620 *et seq.*, the Commissioner must approve or issue a reasonable Plan (the California Automobile Assigned Risk Plan ("CAARP")) for the equitable apportionment, among insurers admitted to transact liability insurance, of those applicants for automobile bodily injury and property damage liability insurance who are in good faith unable to procure that insurance through ordinary methods. The Plan sets forth the overall administrative and operating procedures for CAARP. The current Plan of Operations, set forth in Title 10 of the California Code of Regulations ("CCR") has become substantially outdated by changes in the assigned risk and related laws, and by plan experience. Consequently, a new Plan of Operations is proposed, which is intended to replace the current CAARP administrative and procedural regulations set forth in the California Code of Regulations. 10 CCR § 2400 *et seq.* The plan includes provisions governing, among other things, administrative matters, producer certification and performance standards, personal and commercial automobile coverage and insurer performance standards. The proposal updates the plan of operations in conformance with current policies and recent statutory additions and thus will facilitate uniformity, reliability and fairness in the operation of the plan.

The CAARP statute requires the Commissioner to hold a public hearing and thereafter "approve or issue a reasonable plan for the equitable apportionment" of eligible applicants to subscribing insurers. CIC § 11620. The Commissioner may "approve reasonable amendments to the plan if he or she first holds a public hearing to determine whether the amendments are keeping with the intent and purpose" of the statute. *Id.* Public notice of a hearing regarding the plan must precede the public hearing or the end of public comment period by at least 60 days and must appear in newspapers of general circulation in San Francisco and Los Angeles. *Id.*

CIC § 11624 requires that the plan contain, among other things:

- (a) Standards for determining eligibility of applicants for insurance, including a requirement of a certificate of eligibility . . .
- (b) Procedures for making application for insurance, for apportionment of eligible applicants among the subscribing insurers and for appeal to the commissioner. . .

- (d) Rules and regulations governing the administration and operation of the plan.
- (e) Provisions showing the basis upon which premium charges shall be made, and the manner of payment thereof. . . .
- (f) Any other provisions as may be necessary to carry out the purposes of this article.

CIC §11624 (emphasis supplied).

The proposed plan sets forth eligibility standards, application procedures, apportionment of assignments provisions, and rules and regulations for CAARP's operation. These are elements expressly required to be included in the plan under subdivisions (a), (b) and (d). The other provisions in the plan are necessary to carry out the plan's purpose and thus fall within the scope of subdivision (f). The plan thus sets forth elements required by statute to be included in the plan approved by the Commissioner.

Although the plan has been printed in the California Code of Regulations, there is no requirement that the plan be printed in the California Code of Regulations in full text. The Government Code contemplates that regulations adopted by an agency may be incorporated by reference in a regulation. CGC §11344.6. In fact, there are several existing examples in the California Code of Regulations of incorporation by reference. See, e.g., 10 CCR § 2318 *et seq.* (workers' compensation insurance statistical reporting plans). For insurers and producers subject to the plan, ease of use and efficiency would be promoted if the full text of the plan appeared only in the Plan of Operations itself, as is done country-wide. Therefore, it is proposed that the plan simply be incorporated by reference in a regulation printed in the California Code of Regulations.

This proposal was recommended by the CAARP Advisory Committee, in accordance with CIC § 11623(a).

There are no corresponding federal statutes or regulations on this subject.

#### EFFECT OF PROPOSAL

The effect of each specific proposed section is as follows:

##### **Introduction**

This portion of the Plan simply provides background and basic information for insurance producers submitting applications to CAARP. This section replaces sections 2400, 2401, and 2497.

##### **Definitions**

###### **Section 1. Definitions**

This section defines the terms used in the operation of the plan. This section replaces section 2403.

## **Administrative Part**

### **Section 2. Plan Membership**

This section sets forth the obligation of every admitted liability insurer to participate in the program. It replaces sections 2405 and 2498.

### **Section 3. Administration**

This section describes the Advisory Committee membership and meetings and the right of the Commissioner to examine the plan. It replaces section 2420, 2421, 2421.1a, and 2496.

### **Section 4. Cost of Administration**

This section sets forth the basis for apportioning the costs of administering the plan and requirements for paying assessments. This section replaces sections 2405, 2421.4, 2421.5, 2490, and 2491.

### **Section 5. Duties of Advisory Committee**

This section sets forth the duties of the Advisory Committee, replacing section 2421.2.

### **Section 6. Duties of the Manager**

This section describes the duties of the manager. It replaces sections 2421.3, 2421.6, 2422, 2492, 2492.1, 2492.3, 2492.5, 2494, and 2494.5.

### **Section 7. Amendment of Plan**

This section describes the process for amending the plan, and replaces section 2421.9.

### **Section 8. Determination and Fulfillment of Private Passenger Nonfleet Liability Quota**

This section sets forth the basis for determining an insurer's assigned risk quota, replacing sections 2445, 2445.1, and 2448. It also describes the Limited Assignment Distribution Procedure authorized by CIC §11623.5, replacing section 2454.

### **Section 9. Determination and Fulfillment of Quotas Calendar Year [Insert Year] and Prior Years**

This proposal eliminates the Other Than Private Passenger ("OTPP") quota distribution. To assist insurers during the transition period when the elimination of the OTPP quota distribution occurs, information pertaining to the determination of the OTPP and Private Passenger Nonfleet Liability quotas for the calendar year and those prior have been introduced in new Section 9.

### **Section 10. Reserved for Future Use**

### **Section 11. Commercial Automobile Insurance Procedure Administration**

This section describes the administration of the commercial assigned risk program, including the servicing carrier application and appointment process, and procedures applicable to servicing carrier withdrawal or termination. It replaces section 2432.

### **Section 12. Commercial Automobile Insurance Procedure Participation Provisions**

This section describes insurers' obligations to participate in the CAIP program. It replaces section 2432.

### **Section 13. Reserved for future Use**

### **Section 14. General Provisions**

This section sets forth various administrative provisions, including data reporting, data correction, quality standards, assignments/participation to new or withdrawing insurers or insurers discontinuing or resuming writing, insurers in financial difficulty, insolvent insurers, insurer merger and consolidation, assumption of policy obligations, failure to subscribe to the plan, and settlement balances for insurers in rehabilitation. It replaces sections 2432, 2448, 2449.1, 2449.1a, 2449.2, 2493, 2493.2, and 2493.4.

### **Section 15. Rate Determination**

This section sets forth the basis for determining applicable rates and premiums and requires insurers to provide certain information for that purpose. It replaces sections 2404, 2421.10, and 2461.

### **Section 16. Right of Appeal**

This section sets forth the procedure applicable to appeals of actions taken by any insurer, the Manager, or the committee. It replaces section 2495.

### **Section 17. Indemnification**

This section concerns CAARP's right to defend and obligation to indemnify Committee members against loss for matters arising out of the performance of their Committee functions. It replaces section 2494.7.

### **Section 18. Reserved for Future Use**

### **Producer Certification and Performance Standards Part**

#### **Section 19. Producer Certification**

This section sets forth the process for becoming a certified producer and the responsibilities of certified producers. This section replaces section 2431.1.

#### **Section 20. Performance Standards**

This section sets forth the performance standards for certified producers. It replaces section 2431.2.

### **Section 21. Reserved for Future Use**

### **Personal Automobile Part**

#### **Section 22. Eligibility**

This section describes eligible applicants and vehicles. It specifies the means of establishing eligibility for a policy under the plan, and provides that insurers need not cover unlicensed persons or those who fail to pay the premium. This section limits the plan to covering vehicles registered in California (with limited exceptions). It replaces sections 2404, 2430, and 2431.

#### **Section 23. Application Requirements**

This section spells out certain information to be stated in and the facts about the applicant to be obtained on the insurance application and certificate of eligibility. It also specifies required notices to the applicant, including a fraud warning and a provision designed to protect against repeat applications by persons who have failed to pay for prior CAARP coverage. It replaces sections 2441 and 2442.

#### **Section 24. Reserved for Future Use**

#### **Section 25. Extent of Coverage**

This section specifies the limits of liability, medical payments and uninsured motorists coverage to be provided on approved policy forms. It replaces sections 2406, 2407, and 2408.

#### **Section 26. Premium Payment Options**

This section describes the options applicable to payment of premiums for assigned risk policies, and premium owed for prior policies. It sets forth procedures applicable for dishonored checks. It replaces sections 2443, 2443.1, and 2453.

#### **Section 27. Reserved for Future Use**

#### **Section 28. Application for Assignment, Designation of Insurer, Evidence of Insurance, and Effective Date of Coverage**

This section sets forth the Manager's requirements upon receipt of applications, and procedures applicable to effective dates of coverage. It also specifies return premium provisions under certain circumstances. It replaces sections 2444, 2444.5, and 2444.6.

#### **Section 29. Additional Vehicles or Coverages**

This section sets forth the requirements applicable to policy changes during the term of the policy.

#### **Section 30. Reserved for Future Use**

#### **Section 31. Three-Year Assignment Period**

This section provides that the assignment period generally shall be 36 consecutive months. It replaces section 2482, 2483.3, and 2483.6.

#### **Section 32. Reserved for Future Use**

#### **Section 33. Cancellations**

This section sets forth the procedures when a policy is cancelled mid-term. It replaces sections 2453, 2470, 2471, 2471.1, and 2472.

#### **Section 34. Commission to Producer of Record**

This section sets forth the commission rates to be paid to producers for assigned risk business. It replaces section 2462.

#### **Sections 35 – 36. Reserved for Future Use**

**Section 37. Performance Standards for Insurers Writing California Automobile Assigned Risk Plan Private Passenger Nonfleet Risks**

This section sets forth the performance standards for insurers in their assigned risk and Low Cost automobile business. It replaces section 2431.3, 2450, 2450.5, 2482, 2482.1, and 2483.5.

**Sections 38 – 39. Reserved for Future Use.****Commercial Automobile Part****Section 40. Eligibility**

This section describes eligible commercial applicants and vehicles. It replaces sections 2404, 2430, 2431, and 2432.

**Section 41. Application Requirements**

This section spells out certain information to be stated in and the facts about the applicant to be obtained on the insurance application. It also specifies required notices to the applicant, including a fraud warning and a provision designed to protect against repeat applications by persons who have failed to pay for prior CAARP coverage. It replaces sections 2441 and 2442.

**Section 42. Reserved for Future Use****Section 43. Extent of Coverage**

This section specifies the limits of liability, medical payments and uninsured motorists coverage to be provided, on an approved form, subject to any higher limits that may be required. It replaces sections 2406, 2407, and 2408.

**Section 44. Premium Payment Options**

This section describes the options applicable to payment of premiums for assigned risk policies, and premium owed for prior policies. It sets forth procedures applicable for dishonored checks. It replaces sections 2443, 2443.1, and 2453.

**Section 45. Reserved for Future Use****Section 46. Application for Assignment, Designation of Servicing Carrier, Evidence of Insurance, and Effective Date of Coverage**

This section sets forth the Manager's requirements upon receipt of applications, and procedures applicable to effective dates of coverage. It also sets forth return premium requirements under certain circumstances. It replaces sections 2444, 2444.5, and 2444.6.

**Section 47. Additional Vehicles or Coverages**

This section sets forth the requirements applicable to policy changes during the term of the policy.

**Section 48. Reserved for Future Use****Section 49. Three-Year Assignment Period**

This section provides that the assignment period generally shall be 36 consecutive months. It replaces section 2482, 2483.3, and 2483.6.

#### **Section 50. Change of Ownership/Transfer of Loss Experience**

This section provides that all exposures of commonly owned entities should be written on the same policy and combined for rating purposes, and describes the applicable procedure.

#### **Section 51. Cancellations**

This section sets forth the procedures when a policy is cancelled mid-term. It replaces sections 2453, 2470, 2471, 2471.1, and 2472.

#### **Section 52. Commission to Producer of Record**

This section sets forth the commission rates to be paid to producers for assigned risk business. It replaces section 2462.

#### **Section 53. Reserved for Future Use**

#### **Section 54. Performance Standards for Servicing Carriers Writing California Automobile Assigned Risk Plan Commercial Risks**

This section sets forth the performance standards for insurers writing commercial assigned risk business. It replaces section 2431.3, 2432, 2450, 2482, 2482.1, and 2483.5.

#### **Section 55. Additional Premium Reporting Time Limit**

This new section requires the servicing carrier to obtain preapproval for any additional premium of \$5,000 or greater if the reporting date is more than three years following the policy termination date. It addresses the issue of late reported “estimated” earned premium and the corresponding premium charge-off that usually accompanies it. The late reported additional premium is based upon unaudited unverified policy rating exposures from external sources other than the named insured’s business records. There is generally little chance of collecting the additional premium. The estimated premium is reported as written and earned premium, triggering additional premium based expenses or resulting in under compensation of the servicing carrier for services provided and expenses incurred as a result of the unanticipated policy exposures. Any such request submitted by a servicing carrier will be timely reviewed, and the servicing carrier may appear before the Advisory Committee in connection with the request.

#### **Sections 56 – 57. Reserved for Future Use**

The following sections, currently included in Title 10, California Code of Regulations, sections 2400 *et seq.*, are not included in the new Plan of Operations because they are included in the CAARP Simplified Manual of Rules and Rates, referenced in section 2498.5, which took effect as of July 1, 1999: 2460, 2460.3, 2460.5, 2498.1, 2498.2, 2498.3.1, 2498.4, 2498.4.1, 2498.4.2.

The surety bond requirement in section 2421.6 is being deleted as unnecessary, as are sections 2447, 2480, 2481, 2482.3, 2482.5, and 2483.4.